

## **REMARKS**

Claims 1, 2, 4-14, and 16 - 46 are pending in this application. Claims 27-42 have been withdrawn from consideration pursuant to a restriction requirement. Claims 1, 2, 4-14, 16-26 and 43-46 stand rejected. Favorable reconsideration is respectfully requested in view of the following remarks.

### **I. Rejection under 35 USC 112, second paragraph**

The pending claims have been rejected under the first paragraph of Section 112 as failing to comply with the written description requirement. Withdrawal of this rejection is respectfully requested in view of the amendments set forth above to delete the phrase "non-porous crystalline structure."

### **II. Rejection under 35 USC 103(a).**

Claims 1, 4-13 and 16-26 have been rejected under 35 USC 103(a) as being unpatentable over Yoshimura et al. (US 6,291,094) in view of Cullity, Elements of X-ray Diffraction, 2nd edition.

However, Yoshimura is disqualified as prior art under section 103 because Yoshimura et al. only qualifies as prior art under 35 USC 102(e), and the subject matter of Yoshimura et al. and the claimed invention were, at the time the claimed invention was made, owned by or subject to an obligation of assignment to Toyota Jidosha Kabushiki Kaisha, a corporation of Japan. See 35 USC 103(c). As evidence thereof, the clear and conspicuous statement below is provided by the undersigned attorney of record in the present application (see MPEP 706.02(I)(2)(II)):

## **STATEMENT OF COMMON OWNERSHIP**

Application 09/837,480 and Patent 6,291,094 B1 were, at the time the invention of application 09/837,480 was made, owned by or subject to an

**obligation of assignment to Toyota Jidosha Kabushiki Kaisha, a corporation of Japan.**

In view of the above, Yoshimura et al. cannot be applied under section 103 to reject claims 1, 4-13 and 16-26, and Cullity does not independently render claims 1, 4-13 and 16-26 obvious. Accordingly, withdrawal of the rejection of claims 1, 4-13 and 16-26 as being unpatentable over Yoshimura et al. in view of Cullity is respectfully requested.

**III. Conclusion**

In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: July 30, 2004

By: 

William E. Curry  
Reg. No. 43,572

KENYON & KENYON  
1500 K Street, N.W., Suite 700  
Washington, D.C. 20005  
Tel: (202) 220-4200  
Fax: (202) 220-4201